

Exhibit A

From: Warren Thomas <wthomas@mcciplaw.com>
Sent: Monday, July 3, 2023 3:51 PM
To: Tamkin, Greg; John Harbin
Cc: jgrant@foxrothschild.com; Shoaei, Maral; Schmidt, Kent; Bjorklund, Shannon
Subject: RE: BDC v. ViVitro

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Hi Greg, this email follows up on your message below and our call this morning.

ViVitro opposes BDC's request for a hearing before August 15 as you've proposed. Among other things, while we don't know all the details, we at least know we have issues with availability between July 25 and second week of August (one witness is in Europe for three weeks, and another is traveling each of the first two weeks of August). That said, while ViVitro does not believe a hearing before the Court's stated availability is necessary, ViVitro would not oppose (though would not join) a request for a hearing after September 6. (Note, we do not know witness availability for that period in September.)

Warren Thomas

Principal

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From: Tamkin.Greg@dorsey.com <Tamkin.Greg@dorsey.com>
Sent: Friday, June 30, 2023 12:42 PM
To: Warren Thomas <wthomas@mcciplaw.com>; John Harbin <jharbin@mcciplaw.com>
Cc: jgrant@foxrothschild.com; Shoaei.Maral@dorsey.com; Schmidt.Kent@dorsey.com; bjorklund.shannon@dorsey.com
Subject: BDC v. ViVitro

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Warren and John,

Based on the Court's Reassignment Order entered yesterday afternoon, I am reaching out to see whether you would be agreeable to us requesting a conference to request that the court schedule an evidentiary hearing on the preliminary injunction for no later than August 15th. As you know, BDC filed a preliminary injunction motion on behalf of on April 12, 2023 in the District of Colorado. [Dkt. 8]. On April 19th, Judge Kane scheduled a preliminary injunction hearing for June 6-7, 2023. [Dkt. 11]. Following ViVitro's motion for dismiss, on May 29th, Judge Kane transferred the case to the Central District of California. [Dkt. 28]. The case was then assigned to Judge Klausner on June 7th. Judge Klausner set a case management conference for July 17th. After the parties jointly requested that they be permitted to re-file their previously filed briefs regarding the preliminary injunction motion, Judge Klausner denied the request and directed the parties to follow his formatting requirements. [Dkt. 53]. In turn, we re-filed our motion for preliminary injunction and

supporting papers on June 26. [See Dkt. 60-63]. Pursuant to Judge Klausner's rules, the hearing on the preliminary injunction motion was set for July 24th.

Thereafter, the case was re-assigned to Judge Vera, who was recently appointed to the federal bench. Judge Vera issued an order in all his cases vacating all law and motion dates and vacating all pretrial conferences scheduled prior to January 1, 2024. [Dkt. 65]. As we read Judge Vera's order, there will be no hearing on the preliminary injunction motion until October, at the earliest. BDC intends to take some action such that a hearing can take place prior to ViVitro's announced first delivery date of September.

Accordingly, pursuant to the Local Rules, we plan to file an *Ex Parte* Application requesting briefing schedule and evidentiary hearing on BDC's motion so that the matter can be heard on or before August 15. We believe this will be efficient for both parties and will avoid any further delay. We are also happy to work with you on a preferred date and briefing schedule to avoid interfering with vacation plans, etc.

Please either let us know if you are available to discuss the requested relief later today or Monday morning. Thank you.

Regards,

Greg

Gregory S. Tamkin

Partner, Trial Department Co-Head
Management Committee Member



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